

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

THEODORE S. LUCERO and WALTER)	
BARTH HINES,)	
)	
Plaintiffs,)	
)	
vs.)	2:05-CV-00275-B
)	[WO]
SOUTHERN MICRO SYSTEMS, INC.,)	
)	
Defendant.)	

ORDER ON MOTION

Upon consideration of Plaintiffs' *Motion to Strike Answer and Submission* (Doc. 5, filed April 19, 2005), and after reviewing the submission filed by Allen L. Cox, Sr., in his stated capacity as President of Defendant Southern Micro Systems, Inc., on April 18, 2005 (Doc. 6), it is, for good cause shown, **ORDERED** that **Plaintiffs' Motion is GRANTED**. Accordingly, the Clerk is INSTRUCTED to strike the writings previously docketed as Defendant's Answer (Doc.6).

The Defendant is ADVISED as follows:

1. Every pleading, including the Answer or other pleading in response to a Complaint, must be in compliance with Rule 10, Federal Rules of Civil Procedure.
2. The Complaint represents that Defendant Southern Micro Systems, Inc. is an Alabama corporation registered with the Alabama Secretary of State. **Corporate defendants must be represented by counsel.** It does not appear that Allen L. Cox, Sr., identified as Defendant's President, is a licensed attorney; therefore, he cannot represent this corporate defendant since such defendants cannot appear *pro se.* Thus, it is

ORDERED that the deadline for the corporate defendant, Southern Micro Systems, Inc., to file – by legal counsel – an answer or other responsive pleading to the Complaint, is hereby extended to **MAY 13, 2005**. Counsel's failure to file an answer or other responsive pleading by this extended deadline shall result in a recommendation for entry of a default judgment against **Southern Micro Systems, Inc.** for its failure to defend the Complaint.

The record reflects the Clerk's transmission to the parties of Notice that this case has been assigned to a Magistrate Judge as well as notice of their right to consent, or decline to consent, to the exercise of jurisdiction by a Magistrate Judge, without adverse consequences. *See* 28 U.S.C. § 636(c). For good cause arising from the extension afforded herein for the corporate defendant to secure counsel, it is

ORDERED that Counsel for the parties shall execute and send to the Clerk of Court, for receipt not later than **May 13, 2005**, either the attached form for consent to jurisdiction by a Magistrate Judge or the attached form for reassignment of this case to a District Judge.

DONE this 21st day of April, 2005.

/s/ Delores R. Boyd
DELORES R. BOYD
UNITED STATES MAGISTRATE JUDGE

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CONSENT TO JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of Title 28, U.S.C. § 636(c), the undersigned party or parties to the above-captioned civil matter who previously have indicated their consent to the jurisdiction of a Magistrate Judge of this Court, hereby confirm in writing their consent to a United States Magistrate Judge conducting any and all further proceedings in the case, including trial, and ordering the entry of a final judgment.

Date

Signature

Counsel For (**print** name of all parties)

Address, City, State, Zip Code

Telephone Number

DO NOT FILE THIS DOCUMENT ELECTRONICALLY. PLEASE MAIL IT TO:

Clerk, U.S. District Court
P. O. Box. 711
Montgomery, AL 36101

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA

**EXPLANATION OF ASSIGNMENT TO
UNITED STATES MAGISTRATE JUDGE**

This civil case has been randomly assigned to a United States Magistrate Judge of this court. In accordance with 28 U.S.C. § 636(c), the Magistrate Judges of this court are designated to conduct any and all proceedings in a jury or nonjury civil case and order the entry of final judgment upon the consent of all parties to a case. Any appeal from a judgment entered by a Magistrate Judge is taken directly to the United States Court of Appeals for the Eleventh Circuit in the same manner as any appeal from any judgment entered in this court.

Any party to this lawsuit has the right to consent or decline consent to the jurisdiction of a Magistrate Judge. To exercise your right to consent you should complete the consent form and return it to the Clerk of the Court as indicated in the court's order. Litigants, without concern for any adverse consequences, freely may decline consent to the jurisdiction of a Magistrate Judge. If you decline consent to the jurisdiction of a Magistrate Judge, this case will be reassigned randomly to a District Judge.

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BARTH HINES,

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REQUEST FOR REASSIGNMENT OF CASE TO A UNITED STATES DISTRICT JUDGE

The undersigned party hereby declines to consent to the Magistrate Judge's exercise of civil jurisdiction in this case. The undersigned party requests reassignment of this case to a United States District Judge.

Date

Signature

Counsel For (**print** name of all parties)

Address, City, State Zip Code

Telephone Number